

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KEITH THOMAS,

Plaintiff,

v.

U. S. DEPARTMENT OF EDUCATION,  
et al.,

Defendants.

1:06-CV-00481-OWW-DLB

ORDER DENYING PLAINTIFF LEAVE TO  
PROCEED IN FORMA PAUPERIS  
(Doc. 7)

ORDER REQUIRING PLAINTIFF TO PAY  
\$350.00 FILING FEE IN FULL WITHIN  
THIRTY DAYS OR ACTION WILL BE  
DISMISSED

Plaintiff Keith Thomas ("plaintiff") is a state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. On April 24, 2006, plaintiff filed the complaint in this action and on December 20, 2006, plaintiff filed a declaration attesting to his inability to pay the filing fee.

28 U.S.C. § 1915 governs proceedings in forma pauperis. Section 1915(g) provides that "[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." To date, plaintiff has filed sixty-nine actions in the United States District Court for the Eastern District of California and has had three or more actions dismissed as frivolous, as

malicious, or for failing to state a claim upon which relief may be granted.<sup>1</sup> Thus, plaintiff is subject to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis unless plaintiff is, at the time the complaint is filed, under imminent danger of serious physical injury.

The Court has reviewed plaintiff's complaint and finds that plaintiff has alleged no facts that support a finding he is, at this time, under imminent danger of serious physical injury. Accordingly, plaintiff may not proceed in forma pauperis, and must submit the appropriate filing fee in order to proceed with this action.

Based on the foregoing, it is HEREBY ORDERED that:

1. Pursuant to 28 U.S.C. § 1915(g), plaintiff is denied leave to proceed in forma pauperis in this action; and
2. Plaintiff shall pay the \$350.00 filing fee in full within thirty (30) days or this action will be dismissed, without prejudice.

IT IS SO ORDERED.

**Dated: February 1, 2007**  
3c0hj8

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

---

<sup>1</sup> Among the dismissals suffered by plaintiff that count as strikes under 1915(g) are Thomas v. Galaza, 1:00-cv-05345-AWI-LJO PC (dismissed for failure to state a claim and/or as frivolous on 6/26/00), Thomas v Kim, 1:99-cv-06553-AWI-HGB PC (dismissed for failure to state a claim on 8/29/00), and Thomas v. Galaza, 1:00-cv-05348-OWW-LJO PC (dismissed for failure to state a claim on 11/14/00).